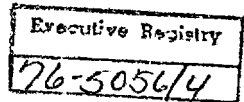




Office of the Attorney General
Washington, D. C. 20530



NOV 12 1976

Honorable George Bush
Director
Central Intelligence Agency
Room 7D5607, CIA Hdgtrs. Bldg.
Washington, D.C. 20505

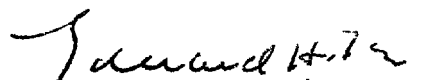
Dear Mr. Bush:

This is in response to your memorandum of September 6, 1976, referring to me proposals for the creation of a National Counterintelligence Policy Committee (NCPC) and a National Foreign Counterintelligence Board (NFCB).

The proposals are in some detail, and will obviously require further consideration on the part of all agencies affected. I would like to suggest at this point that I believe there are important policy considerations which argue against the Attorney General chairing the NCPC group. I would like to urge that it would be more appropriate if the Director of the FBI were the chairman. The DCI and the Attorney General might be ex officio members of the group with the power to designate a representative for each on the group. There are of course other possible variations.

There are other aspects of the proposal which raise questions or problems, especially with respect to the duties and responsibilities of the NFCB. Nevertheless, in order to avoid delay, it would seem desirable to circulate the proposal in its present form among the affected departments and agencies, after which I suggest that appropriate representatives of all of them meet to discuss it.

Sincerely yours,


Edward H. Levi
Attorney General

DOJ Review Completed

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Executive Registry

76-5056/3

THE DIRECTOR OF CENTRAL INTELLIGENCE
WASHINGTON, D. C. 20505

6 SEP 1976

MEMORANDUM FOR: The Honorable Edward H. Levi
The Attorney General

FROM: George Bush

SUBJECT: Establishment of National Foreign
Counterintelligence Policy and Coordination
Mechanisms

1. Recent developments relating to national counterintelligence (CI) suggest that our early collaboration would be desirable to work out ways of bringing about some improvements in this area. We may, for example, expect that Senator Inouye's newly-established Senate Select Committee on Intelligence (SSCI) will focus early on the previous Church Committee's recommendations on counterintelligence.

2. Senator Church's Committee recommended (1) the creation of a new National Security Council CI Committee (established by statute) with the Attorney General as Chairman; and (2) a classified Presidential review of current CI issues to provide for enunciation of a classified Presidential statement on national CI policy and objectives. Specific SSCI current concerns for CI are based on doubts regarding the substantive effectiveness, adequacy of interagency coordination, and protection of individual rights of the foreign CI effort.

3. The President's Foreign Intelligence Advisory Board (PFIAB), pointing in a similar direction, has reported that "within the Intelligence Community, policy-level coordination of CI activities is inadequate," and that "at the national policy level, there is insufficient CI guidance." PFIAB has recommended (1) "the establishment at a senior level of a CI coordinating mechanism...responsible to the DCI and the Attorney General"; and (2) "the development by the Attorney General, in consultation with the DCI, of a national CI policy directive."

4. The size and extent of Soviet/East European/Cuban intelligence efforts against the United States worldwide, as well as within the United States, have been of concern to me

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for some time. These foreign intelligence efforts plus the increasing exchanges, commerce, and Soviet shipping visits heighten the necessity for an effective, coordinated national foreign CI effort making economical use of limited available resources.

5. I agree with the PFIAB and Senate conclusions that there is need for a national foreign CI policy and for national mechanisms for meshing Community foreign CI activities. Foreign CI* is the only major intelligence discipline for which no national level interagency committee and policy structure exist. There is no national foreign CI policy. Five separate agencies engage in foreign CI activity, each on its own, i.e., FBI, CIA, Air Force Office of Special Investigations, Naval Investigative Service, and Army Military Intelligence Groups under the U.S. Army Intelligence Agency and certain Army Commands. There is required coordination of specific operations with CIA or the FBI, depending on the locus of the operation. Other arrangements are bilateral. There is no central management within the DOD of the military CI agencies.

6. I would like to be of assistance to you in pursuing action on these concerns and the PFIAB and Congressional recommendations. For your consideration, I am attaching a draft of a proposed unclassified Executive Order to establish an NSC-level National Counterintelligence Policy Committee (NCPC) chaired by you, and a subordinate National Foreign Counterintelligence Board. This draft is a revision of one provided previously to a member of your staff for informal comment. There is an inherent logic to the advocacy of a national CI policy mechanism under the Attorney General. As the nation's chief legal officer, he is the only national level officer, below the President, whose authority encompasses the FBI's domestic foreign CI activities and its domestic internal security functions. He is thus best able to define uncertain problem areas. Furthermore, he is charged by E.O. 11905 with establishing regulations governing the FBI's foreign CI activities. Since this involves domestic U.S. political and legal considerations, he can both bridge the gap

*Foreign CI in this context does not include protective security functions such as personnel background investigations, complaint investigations, and protective security surveys and services; nor does it include criminal investigations. It does include foreign CI collection, foreign CI investigations for operational leads, foreign CI operations and foreign production.

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between the FBI and other foreign CI agencies and assure that provisions are made for protection of the rights of U.S. citizens. Other alternatives to Attorney General chairmanship could be for the Attorney General to serve as co-chairman of the NCPC with the DCI, or for the Deputy Attorney General to be an NCPC member with the DCI as chairman. For the reasons cited above, however, I believe it best for the Attorney General to chair the policy committee.

7. The two-tiered structure detailed in the attached draft is self-explanatory. The top committee by virtue of its level and chairmanship can set policy spanning the full range of foreign CI activities and production. The composition of the subordinate board can assure effective implementation of policy and an informed, productive interchange on common problems and needs. Both will be able to encompass the entire foreign CI community. Neither the Committee nor the Board would have any authority over the law enforcement activities of the FBI or other Federal, State, or local law enforcement organizations.

8. I believe that public release of this Executive Order at the time of its issuance, with accompanying explanation, would secure public support for it.

9. After you have reviewed and commented on the attached draft, I would propose that we solicit comments and suggestions on it from appropriate Community CI agency and other leaders. I invite your representative to contact my Intelligence Community Staff officer, Fritz H. Giesecke, 351-4246, regarding any questions on this matter.


George Bush

Attachment:

Draft Executive Order

cc: Committee on Foreign Intelligence:

Mr. Ellsworth

Mr. Hyland

Assistant to the President for National

Security Affairs: General Scowcroft

Chairman, President's Foreign Intelligence

Advisory Board: Mr. Cherne

NATIONAL FOREIGN COUNTERINTELLIGENCE
POLICY, ACTIVITY AND PRODUCTION

1. Purpose

To develop national foreign counterintelligence policies and facilitate effective foreign counterintelligence activities while safeguarding the constitutional and statutory rights of U.S. citizens.

2. Definition

For the purposes of this Order, "foreign counterintelligence" has the meaning assigned to it by Executive Order 11905 of February 18, 1976, i.e., "activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism." "Foreign counterintelligence activities" is further defined to include (a) the processes of collecting, developing, recording, and disseminating information concerning intelligence activities of foreign individuals, groups, organizations, or nations; and (b) the information product, consisting of information on foreign intelligence and security services, other foreign instrumentalities engaged in intelligence-type activities, and foreign based terrorist groups, including their authority, organizational structure, policies, status within the government and/or relationships with other groups, plans, procedures, funding, files and other information handling systems, training, modus operandi, targeting, personnel (of all types and relationships), cover practices, liaison relationships with other foreign intelligence and security services, technical systems and capabilities, security systems and vulnerabilities.

3. National Counterintelligence Policy Committee

There is hereby established a National Counterintelligence Policy Committee (NCPC) subordinate to the National Security Council.

a. Membership of the NCPC will consist of the following:

The Attorney General, Chairman

Director of Central Intelligence

Deputy Secretary of Defense

Deputy Assistant to the President for National
Security Affairs

Under Secretary of State for Political Affairs

Director, Federal Bureau of Investigation

b. The NCPC will be responsible for:

(1) Issuing broad national-level policy guidance for the foreign counterintelligence activities of all United States Government department and agencies.

(2) Acting as an appeal body to decide issues considered but not resolved by the National Foreign Counterintelligence Board (NFCB), including interagency disagreements over foreign counterintelligence coordination, priorities, extent of effort, and national policy implementation.

c. Decisions of the NCPC may be reviewed by the National Security Council upon appeal by the Attorney General, the Director of Central Intelligence or any member of the National Security Council.

d. Staff support for the NCPC will be provided as jointly agreed between the Attorney General and the Director of Central Intelligence.

4. National Foreign Counterintelligence Board

There is hereby established a National Foreign Counterintelligence Board (NFCB) subordinate to the National Counterintelligence Policy Committee (NCPC):

a. Membership will consist of the following:

A representative of the Attorney General

A representative of the Deputy Secretary of Defense

Deputy Assistant Secretary of State for Security

A representative of the FBI Director (the head of the Intelligence Division)

Chief of the CIA Counterintelligence Staff

Counterintelligence Chiefs of the Military Services

A representative of the Director, National Security Agency

b. The Chairman of the NFCB will be designated by the Director of Central Intelligence with the concurrence of the Attorney General.

c. The NFCB will be responsible for:

(1) Overseeing the implementation of national foreign counterintelligence policies.

(a) Resolving interagency differences over such implementation, including possible problems of extent and nature of coordination; of training; of liaison with foreign services; and methods of operation.

(2) Monitoring foreign counterintelligence activities to establish priorities and objectives for foreign counterintelligence (a) investigations for operational leads, (b) collection, (c) operations, (d) production and (e) research and development.

(3) Reviewing and reestablishing guidelines for the maintenance of central records of foreign counterintelligence information, now being maintained by CIA in accordance with existing Intelligence Directives.

(a) Determining the locus of such a central depository.

(b) Assuring that all organizations engaged in foreign counterintelligence activity make adequate and timely inputs of information directly related to foreign counterintelligence.

(4) Assuring that foreign counterintelligence information is collated, analyzed and disseminated in timely and useful studies or reports to foreign counterintelligence users -- national, departmental or interdepartmental.

(5) Conducting periodic evaluations of the execution of foreign counterintelligence activities.

(6) Reviewing particularly sensitive and important foreign counterintelligence operations, as determined by criteria to be established by the NCPC, and making appropriate related recommendations to the NCPC.

(7) Coordinating as appropriate with any other inter-agency organizations on foreign counterintelligence-related activities.

d. Decisions of the NFCB may be reviewed by the NCPC upon appeal by the Chairman of the NFCB or any member of the NCPC.

e. Staff support to the NFCB will be provided by the Intelligence Community Staff.

5. Agencies Engaged in Foreign Counterintelligence Activities

a. Departments and agencies engaged in foreign counterintelligence activities will comply with the policies of the NCPC and the decisions of the NFCB concerning the implementation of these policies.

b. Departments and agencies engaged in foreign counterintelligence activities will provide information to the NFCB or NCPC as required by either body for the performance of its responsibilities. Requirements for such information must take into account, however, the necessity to protect intelligence sources and methods and will not include information not essential for the effective accomplishment of the responsibilities of either body.

6. Enabling Data

a. The NCPC, NFCB, Attorney General and Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

b. Departments and agencies engaged in foreign counterintelligence activities shall issue supplementary directives to their organizations as necessitated by this Order and directives issued pursuant to paragraph 6. a.

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DCI/HRD/JHorn:bb (25 August 1976)

Revised: [] (3 September 1976); [] 25X1

Distribution:

- Original - Addressee w/att *Attorney General*
- 1 - Mr. Ellsworth w/att - Comm on Foreign Intelligence
 - 1 - Mr. Hyland w/att - Comm. on Foreign Intelligence
 - 1 - General Scowcroft w/att - Ass't to President
 - 1 - Mr. Cherne w/att - Chairman, PFIAB
 - 1 - DCI w/att
 - 1 - GC/CIA w/att
 - 1 - D/DCI/IC w/att
 - 1 - SA/D/DCI/IC w/att
 - 1 - D/OPEI/ICS w/att
 - 1 - Executive Registry w/att
 - 1 - IC Registry w/att
 - 1 - C/HRD/ICS w/att
 - 2 - HRD w/atts Subject file
 - " Chrono file
 - 1 - JH

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The proposed E.O. uses the E.O. 11905 definition of foreign CI and thus includes terrorism in its definition. The proposed E.O. is complementary to and not at cross purposes with the work of the Cabinet Committee to Combat Terrorism.